SENATE TAXATION
EXHIBIT NO. 9
DATE 2-16-07
BILL NO. SB-138

PCI

Property Casualty Insurers Association of America

Shaping the Future of American Insurance

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Statement filed with the Senate Taxation Committee on Senate Bill 138

The Property Casualty Insurers Association of America (PCI) urges the Senate Taxation Committee not to pass Senate Bill 138, because it is a well-intentioned but extremely overbroad solution to a problem that, to the extent it existed, has largely been solved. PCI represents more than 1,000 member property/casualty insurers which write over $194 billion in annual premiums, over 40 percent of the property/casualty premiums written in the United States. Two hundred forty-four of our members provide insurance in Montana, writing almost $517 million in premiums annually (in 2005), 34.8% of the Montana property/casualty insurance market.

- PCI's members strongly support proper corporate governance and compliance with federal and state tax law. We believe that insurers should pay their fair share in taxes in the states in which they do business.

- Insurance companies are not tax shelters. In Montana, even more than in most other states, insurers already pay more than their fair share of corporate taxes. While corporations are generally subject to a business tax on their net income, Montana imposes a 2.75% tax on insurance companies based on their premiums written, which is much closer to a tax on gross income. Even though the premium tax rate is lower than the corporate income tax, the tax base is much larger, and therefore insurers bear a significantly-higher relative tax burden than the rest of the business community. In 2005 insurers themselves paid more than $61 million in premium taxes in Montana. Insurers are willing to pay the premium tax, even though it is higher than the income tax, because it is simpler, more predictable and used in almost all of the states. In addition, Montana's 2.75% premium tax is already substantially higher than the national average (approximately 2%), and higher than that of all neighboring states except Idaho (also 2.75%).

- SB 138 would impose a California-based solution on Montana insurers, businesses and policyholders. The basis for SB 138 is a California statute that was enacted in 2004 to solve a specific problem created by a California court decision. In most cases the language of SB 138 is a more-or-less direct "lift" from California AB 263.

- In particular, SB 138 would limit the maximum deduction for all dividends received from insurers in a controlled group to 80%, while U.S. and almost all state corporate income tax laws provide for a maximum 100% dividend-received deduction ("DRD"), the same limit that applies to DRDs from general business corporations, in order to avoid double taxation of income. This limit applies to dividends received from any insurer, including Montana domestics. California is one of a very small number of states that limit the maximum DRD for dividends from insurers. PCI believes that this limitation is entirely inappropriate.

- Congress eliminated a primary impetus for "stuffing" income-producing assets in insurance companies by revising the tax exemption in Internal Revenue Code section 501(c)(15) to apply only to companies with annual gross receipts of $600,000 or less, rather than the prior $350,000 annual limitation on premiums.

- The overwhelming majority of insurers in Montana, which do not engage in any tax avoidance activities, would be required to comply with intrusive new reporting requirements administered by the Department of Revenue. Along with the state's high premium tax, this would increase insurance costs for Montana policyholders and continue to make the Montana insurance market less attractive for insurers.

For all of these reasons, PCI urges the Committee not to approve SB 138.

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